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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,237	11/04/2003	Douglas S. Martin	33583US2	5260

116 7590 01/10/2005

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CLEVELAND, OH 44114-3108

EXAMINER

FONTAINE, MONICA A

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/701,237

Applicant(s)

MARTIN, DOUGLAS S.

Examiner

Monica A Fontaine

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 110403.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Claims 1-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected closure, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 13 December 2004.

Applicant's election without traverse of claims 12-14 in the reply filed on 13 December 2004 is acknowledged.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 12-14 are rejected under 35 U.S.C. 102(a) as being anticipated by Learn et al. (U.S. Patent 6,287,106). Regarding Claim 12, Learn et al., hereafter "Learn," show that it is known to carry out a method of making one-piece dispensing closures (Abstract) comprising providing tooling elements that, when closed, collectively form a mold cavity defining the shape of the closure (Column 4, lines 9-34), the tooling elements being assembled on one or the other of a pair of platens, one platen being movable relative to the other, the cavity being arranged to form an end wall with at least one dispensing aperture and at least one flap integrally hinged to the end wall and having a plug registerable with each aperture as a pair when the flap is closed

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over the end wall (Figure 6; Column 4, lines 9-18; Column 8, lines 16-63), each aperture and plug pair being formed by tooling elements on a common platen whereby precise location of each plug with respect to its paired aperture is achieved (Figure 6; Column 4, lines 9-34; Column 8, lines 16-63).

Regarding Claim 13, Learn shows the process as claimed as discussed in the rejection of Claim 12 above, including a method wherein the mold cavity tooling elements are configured to produce a touch seal between the plug and aperture (Figure 8).

Regarding Claim 14, Learn shows the process as claimed as discussed in the rejection of Claim 12 above, including a method wherein the mold cavity tooling elements are configured to form the plug or plugs as thin wall hollow structures open at ends distal from the respective flap or flaps (Figures 6-8).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with regard to molding closures in general:

U.S. Patent 4,022,352) to Pehr

U.S. Patent 4,244,495 to Lorscheild et al.

U.S. Patent 4,852,770 to Sledge et al.

U.S. Patent 5,031,784 to Wright

U.S. Patent 5,252,312 to Gentile et al.

U.S. Patent 5,289,950 to Gentile

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U.S. Patent 5,356,017 to Rohr et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A Fontaine whose telephone number is 571-272-1198.

The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Maf

January 3, 2005



**MICHAEL P. COLAIANNI**  
**SUPERVISORY PATENT EXAMINER**